IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

Review Application No. 94 of 2006 in
CWP No.1976 of 2005.
Date of Decision: April 27, 2007.

Union of India through the General Manager, Northern Railways, Baroda House, New Delhi

....**Petitioner**
**through**
**Mr. Puneet Jindal, Advocate.**

Versus

M/s H.R.Construction Company & Anr.

...**Respondents**
**through**
**None.**

**CORAM:**
**HON'BLE MR. JUSTICE VIJENDER JAIN, CHIEF JUSTICE,**
**HON'BLE MR. JUSTICE SURYA KANT.**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**ORDER:-**

This review application has been moved to recall the order dated 8th February, 2006 whereby Civil Writ Petition No. 1976 of 2005 filed by the applicant-petitioner was not entertained and was dismissed with the observations that in the light of decision of the Seven-Judges Bench of the Apex Court in **SBP & Co. v Patel Engineering Limited and another, (2005) 8 SCC,618**, the applicant-petitioner could raise all objections including those against the appointment of the Arbitrator under Section 16 of the Arbitration and Conciliation Act, 1996 (for short 'the Act').

It may be mentioned here that in the afore-stated writ petition, the applicant-petitioner had impugned the order dated 18th January, 2004 passed by the learned Additional District Judge, Panipat whereby an application under Section 11 of the Act filed by the respondent was accepted and the General Manager, Northern Railways, New Delhi was directed to appoint the Arbitrator(s) in terms of clause 64 of the General Conditions of Contract.

The order dated 8th February, 2006 is sought to be recalled, *inter-alia*, on the ground that the learned Additional District Judge lacked inherent jurisdiction to pass the aforementioned order and if the applicant-petitioner's contention to this effect is accepted, there would be no legal necessity to relegate the petitioner before the Arbitrator to raise its objections under Section 16 of the Act. The applicant-petitioner has also questioned the territorial jurisdiction of the Court at Panipat to entertain the application under Section 11 of the Act, apart from contending that there was no live dispute between the parties on the date when the order dated 18th January, 2004 was passed by the said Court.

Notice in the review application was issued to learned counsel for the respondent, who sought and was granted time to file reply to the review application on 25th August, 2006. Thereafter, several opportunities were granted to file reply including last opportunity granted on 1st December, 2006. No reply, however, has been filed so far nor the learned counsel for the respondent has come forward to assist this Court.

We have heard learned counsel for the applicant-

petitioner and perused the averments made in the review application as well as in the main case. We are satisfied that apart from other ancillary issues, the main plea raised on behalf of the applicant-petitioner that in terms of Rule 3 of "the Scheme for appointment of Arbitrators by the Chief Justice of Punjab and Haryana High Court, 2003", which was in vogue at that time, learned Additional District Judge lacked jurisdiction to entertain the application under Section 11 of the Act where the value of the subject matter, like in the present case, exceeded Rs. Twenty Five Lacs, requires adjudication on merits.

Non-consideration of the above-noticed contention amounts to an error apparent on the face of the record.

Consequently, we allow this application and recall the order dated 8th February, 2006. The Registry is directed to list the main case, i.e., CWP No. 1976 of 2005 as per roster.

Review Application stands disposed of accordingly.

**( VIJENDER JAIN )**
**CHIEF JUSTICE**

April 27, 2007.
**dinesh**

**( SURYA KANT )**
**JUDGE**